

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2013-184**

11 **TISHA M. MALLON**
12 **205 San Anselmo Avenue**
13 **San Anselmo, CA 94960**

A C C U S A T I O N

14 **Registered Nurse License No. 636726**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about April 29, 2004, the Board of Registered Nursing issued Registered Nurse
23 License Number 636726 to Tisha M. Mallon (Respondent). The Registered Nurse License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on January
25 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
4 that the Board may discipline any licensee, including a licensee holding a temporary or an
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
6 Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
10 Code, the Board may renew an expired license at any time within eight years after the expiration.

11 6. Section 2761 of the Code states:

12 "The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct. . ."

15 . . ."

16 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
17 functions, and duties of a registered nurse, in which event the record of the conviction shall be
18 conclusive evidence thereof.

19 7. Section 2762 of the Code states:

20 "In addition to other acts constituting unprofessional conduct within the meaning of this
21 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
22 chapter to do any of the following:

23 . . .

24 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her
28 ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

• • •

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Alcohol Conviction)

10. Respondent is subject to disciplinary action under section 2762(c) of the Code in that Respondent was convicted of a crime involving alcohol. The circumstances are as follows:

11. On or about January 5, 2012, in Marin County Superior Court Case No. CR178018A, Respondent was convicted of violating Vehicle Code section 23152(a), driving under the influence of alcohol. The circumstances leading to Respondent's conviction are as follows:

12. On or about October 19, 2011, Respondent drove a vehicle under the influence of alcohol. Respondent was involved in an accident and had a blood alcohol level of .28%.

FIRST CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action under section 2762(b) of the code in that Respondent used alcohol to an extent or in a manner that was dangerous or injurious to herself, others, and/or the public. The circumstances are described in paragraphs 11 and 12, above.

1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 14. Respondent is subject to disciplinary action under section 2761(a) of the code in that
4 that Respondent was involved in unprofessional conduct. The circumstances are described in
5 paragraphs 11 and 12, above.

6 THIRD CAUSE FOR DISCIPLINE

7 (Substantially Related Conviction)

8 15. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the
9 code in that Respondent was convicted of a crime that is substantially related to the duties,
10 functions, or qualifications of a registered nurse. The circumstances are described in paragraphs
11 11 and 12, above.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 636726, issued to Tisha
16 M. Mallon;

17 2. Ordering Tisha M. Mallon to pay the Board of Registered Nursing the reasonable
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions
19 Code section 125.3;

20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: September 13, 2012

23 *for* *Louise R. Bailey*
24 LOUISE R. BAILEY, M.ED., RN
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

SF2012402285
accusation.rtf